

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

---

DIAMOND DAVIS individually and on :  
behalf of all others similarly situated :

Plaintiff, :

v. :

NORTHEAST CENTER FOR YOUTH :  
AND FAMILIES, INC., and KEVIN DAY :

Defendants. :

---

CIVIL ACTION NO. 3:22-cv-30009

**DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

Pursuant to Fed. R. Civ. P. 12(b)(1) and (6), Defendants Northeast Center for Youth and Families, Inc. ("NCYF") and Kevin Day ("Day") (collectively "Defendants") hereby move to dismiss Plaintiff Diamond Davis' ("Davis") Complaint ("Complaint") on the following grounds:

1. Section 301 of the Labor Management Relations Act preempts Plaintiff's state Massachusetts Wage Act and *quantum meruit* claims; and
2. The existence of a valid collective bargaining agreement covering Plaintiff's overtime pay claim requires dismissal of Plaintiff's equitable *quantum meruit* claim.
3. Plaintiff's Fair Labor Standards Act claim must be dismissed because she is not entitled to recover alleged unpaid overtime compensation earned when the applicable statute of limitations had expired.

WHEREFORE, Defendants request this Honorable Court dismiss Plaintiff's Complaint in its entirety for the reasons set forth in this Motion to Dismiss and in Defendants' Memorandum of Law in Support of Their Motion to Dismiss.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)

Pursuant to Local Rule 7.1(a)(2), prior to filing the above Motion to Dismiss, counsel for the Defendants attempted in good faith to confer and resolve the matters addressed herein by telephone on March 9, 2022 but that effort was unsuccessful.

**REQUEST FOR ORAL ARGUMENT**

Respectfully Submitted,

/s/ Timothy Murphy

Timothy Murphy, Esq.

BBO No. 556429

Meaghan E. Murphy, Esq.

BBO No. 691887

Counsel for Defendants

Skoler, Abbott & Presser, P.C.

One Monarch Place, Suite 2000

Springfield, Massachusetts 01144

Tel.: (413) 737-4753/Fax: (413) 787-1941

E-Mail: [tmurphy@skoler-abbott.com](mailto:tmurphy@skoler-abbott.com)

[mmurphy@skoler-abbott.com](mailto:mmurphy@skoler-abbott.com)

Dated: March 9, 2022

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the above document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing on March 9, 2022.

/s/ Timothy F. Murphy  
Timothy F. Murphy, Esq.